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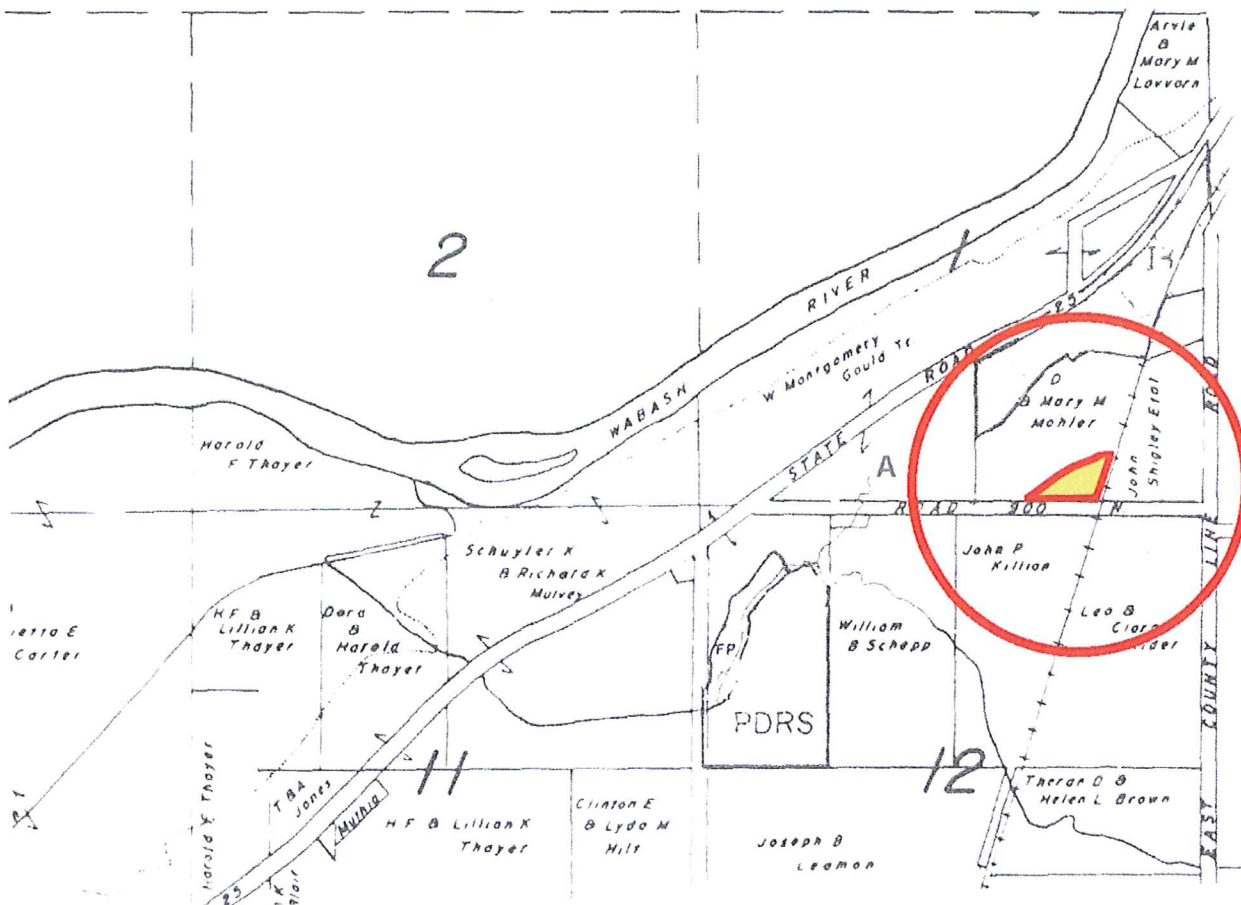
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**BZA-1800 & 1801  
E&B PAVING, INC.  
Variances  
Special Exception**

**STAFF REPORTS  
July 22, 2010**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, with consent of owners, is requesting the following setbacks variances for a proposed temporary concrete batch plant (on this agenda, BZA-1801):

1. 61.5' from the southern property line;
2. 80.91' from the northern property line; and
3. 88.96' from the eastern property line (UZO 4-4-8);
4. ~~To permit a lot size of 4.508 acres instead of the required 5 acres for a temporary batch plant (UZO 3-2, Footnote 9)~~

on a triangular-shaped piece of property located north of CR 900 N and west of the Norfolk Southern Railroad, adjacent to the new Hoosier Heartland bridge over the railroad in Washington 01(SW) 24-3.

**AREA ZONING PATTERNS:**

The subject property is zoned A, Agricultural, as is all property surrounding. A temporary borrow pit, in which active mining was completed November 2009 is located just south of this site (BZA-1772).

**AREA LAND USE PATTERNS:**

The triangular-shaped unimproved site abuts the newly constructed Hoosier Heartland bridge over the Norfolk Southern railroad tracks. Property surrounding the site is a mix of wooded and agricultural; a few large lot residences are located east on 900 N, becoming more prevalent closer to SR 25.

**TRAFFIC AND TRANSPORTATION:**

County Road 900 N is currently closed to through traffic just west of this site where the new Hoosier Heartland will cross at a grade separation. According to County Highway, as part of the Hoosier Heartland project, CR 900 N will be reconstructed, so concern over wear and tear on the road from batch trucks is minimal.

**STAFF COMMENTS:**

In conjunction with these variances, petitioner is requesting a special exception for a temporary batch plant (SIC 1611) in operation from October 2010 until August 2011. Originally, petitioner's request included a variance to permit less than the 5 acre minimum required in Footnote 8 to the Permitted Use Table. While both Footnotes 8 and 9 reference SIC 1611-Asphalt or Concrete Paving, only Footnote 9 applies to temporary batch plants. ("9Permitted in designated rural zones as temporary batch

plants only”). Petitioner withdrew the request to permit a lot size of 4.508 acres instead of the required 5 acres.

The subject property was part of a larger 45 acre tract before INDOT acquired right-of-way for the Heartland corridor; right-of-way purchased created three separate tracts. This triangular site is bordered on the south by the Norfolk Southern railroad tracks, the west by CR 900 N, and creating a northeasterly border is the Hoosier Heartland bridge over the railroad.

Because a temporary batch plant is classified as an open use, the open use setback of 100' from all property lines must be observed. Petitioner has met the setback on one side of the property, but to make the space viable for the proposed use, is requesting three setback variances; all variances requested are greater than 50'. The setbacks requested are from an office building and two stockpile areas. Petitioner is not seeking a setback from a more intense part of the batch plant, but rather from the office building and two stockpile areas. Because of its triangular shape, petitioner's effort to minimize variance requests and low intensity of uses requiring the setbacks, staff can recommend approval.

This location is ideal for a temporary batch plant: distance travelled to get to the right-of-way is minimized and no additional adverse affects on surrounding properties are created.

Regarding the ballot items:

1. The Area Plan Commission at its June 21, 2010 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. Granting the variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. This piece of property is both the most isolated of the three tracts created from the taking of right-of-way and the closest access to the Hoosier Heartland. As with all activity involved in the construction of the Hoosier Heartland, the proposed use is temporary in nature and will not have a permanent presence at this location. Additionally, one of the goals of the Unified Zoning Ordinance includes “to facilitate the adequate provision of transportation.” Granting the variances will allow petitioner to fulfill that goal with the completion of the long-awaited Hoosier Heartland corridor.
3. Use and value of the area adjacent to the property included in the variance requests **WILL NOT** be affected in a substantially adverse manner. The nearest neighbor affected by these requests previously allowed a haul road for trucks carrying fill material located on the property. Additionally, the impact on neighboring properties will be no greater than the current construction of the Hoosier Heartland.
4. When INDOT purchased right-of-way for the Hoosier Heartland, this property, once

part of a larger 45 acre tract, took on its triangular shape and small size. Because of its size, shape and proximity to the newly constructed bridge, the terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district.

5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The challenges in siting a temporary batch plant and meeting ordinance standards at this location were not caused by petitioner, but by a right-of-way taking.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. In fact, locating a batch plant on the subject property may well reduce fuel costs and project completion time, lessening the costs on all taxpayers.

5b. Petitioner attempted to reduce its variance requests while still maintaining enough space to keep the proposed project viable. Therefore, the variances sought **DO** provide only the minimum relief needed to alleviate the hardship.

**STAFF RECOMMENDATION:**

Variance #1 (61.5' from the southern property line): Approval

Variance #2 (80.91' from the northern property line): Approval

Variance #3 (88.96' from the eastern property line): Approval

**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, with consent of owners, is requesting a special exception to permit a temporary concrete batch plant (SIC 1611, Footnote 9). The plant will produce concrete for paving the Hoosier Heartland and will be in operation from October 2010 until August 2011, Monday through Saturday 6:30 a.m. until 3:00 p.m., with a maximum amount of production hours from 6:30 a.m. until 6:30 p.m. The A-zoned property is located north of CR 900 N and directly west of the Norfolk Southern Railroad in Washington 01 (SW) 24-3. (UZO 3-2, Footnote 9)

**For AREA ZONING PATTERN and AREA LAND USE PATTERNS:**

See BZA-1800

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

Petitioner indicated that it takes roughly 20 gallons of water to produce one cubic yard of concrete; at its busiest (2100 cubic yards of concrete) 42,000 gallons of water are needed for daily production. Petitioner acknowledges this is a significant amount and ran a test well to mimic intense water usage for 24 hours to ensure that this use will not impact the water table. Petitioner has spoken with neighbors about possible negative effects on the water table and neighboring wells and will continue to monitor the water table with pressure meters and gauges to measure water flow. Based on the results of their test well, petitioner does not anticipate any problems but has agreed to haul in water if there are any adverse effects on the water table or neighbors' wells. The test well was drilled to a depth of 700' and produced salt water which cannot be used to make concrete; as a result the well is relatively shallow at 150' but petitioner states there is adequate water on site. *See attached email for further information.*

**TRAFFIC AND TRANSPORTATION:**

County Road 900 N is closed to through traffic just north of this site where the Heartland Corridor intersects. Loaded batch trucks will leave the proposed plant, enter onto CR 900 N and travel approximately 1/10 mile to the Hoosier Heartland right-of-way. County Highway will require petitioner to receive a driveway permit; petitioner will need to provide a copy of the permit to staff. County Highway has also indicated that as part of the Hoosier Heartland completion and relinquishment agreement, CR 900 N will be rebuilt, so there is little concern about wear and tear on the existing road.

Even though the special exception request includes operation from October 2010 until August of 2011, conversations with petitioner reveal that there are 85 days of production planned for this project. Plant production will vary depending on how much road grade has

been prepared and weather conditions. There will be periods of time with little or no activity followed by periods of intense activity. Plant production could, at times, be 10-12 hours per day, with most production days less than that. Petitioner has requested to allow up to 12 plant hours per day, with no night production or production on any Sunday or holiday. Petitioner believes that most production days will be less than 10 hours. On the busiest day, requiring 12 hours of production, petitioner estimates that 2100 cubic yards of material will leave the batch plant; this is enough material to fill 210 trucks. During times when there is no active paving and loaded batch trucks are not leaving the plant, stockpiling of materials and maintenance will occur on site. There will be days that no loaded trucks leave the site at all—particularly in the winter and in inclement weather.

In addition to loaded batch trucks, materials will be delivered to the site including sand, stone and cement. Four employees will also park on site in front of the proposed office trailer.

#### **STAFF COMMENTS:**

Petitioner's proposed temporary batch plant would be in operation from October 2010 until August 2011 for paving of the Hoosier Heartland. Footnote 9 states that SIC 1611-Concrete and Asphalt contractors are permitted in the A zone by special exception but *only* as temporary batch plants. Since temporary batch plants are open uses, a 100' setback from all property lines is required. Petitioner is also requesting several setback variances; no bufferyard is required for temporary batch plants.

Petitioner's selected location adjacent to the Hoosier Heartland right-of-way is ideal for the proposed use. The amount of time spent on county roads (one that will be reconstructed) is minimized, lessening adverse affects on neighbors, decreasing project time and possibly reducing cost.

Petitioner has indicated that on the busiest day, roughly 210 loaded trucks will leave the site; during a ten-hour workday that amounts to 20 trucks an hour. This volume of truck traffic will not occur every day, but activity will be in short, intense bursts, scattered among 85 paving days spread out over 14 months. Hours of operation proposed are generally 6:30 a.m. until 3:00 p.m., Monday through Saturday, with the anomalous twelve hour plant workday during occasional busy times. No outdoor lighting is proposed, so no work will begin before sunrise and all work will end before dusk. Noise produced from a temporary batch plant will be no more intrusive than noise associated with the construction of the Hoosier Heartland.

At its meeting on July 7, 2010 the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1, Footnote 9 to the Primary Use Table of the Unified Zoning Ordinance **DOES** authorize the special exception for a temporary batch plant (SIC 1611) in the A zoning district.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met if the variances regarding setbacks (BZA-1800) are approved. All other development standards can be met.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance. In fact, one of the goals of the Unified Zoning Ordinance includes “to facilitate the adequate provision of transportation.” Granting this special exception will promote that goal.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
  - a. Traffic generation: At times, petitioner’s use will generate 210 trucks per day. Staff recognizes that level of activity will come in short bursts, and some days there will be no loaded trucks leaving the plant at all. In addition to other construction traffic, the average amount of additional traffic created by this use will have no negative effects on neighboring uses.
  - b. Placement of outdoor lighting: The only outdoor lighting proposed is a light over the control house door; there will be no overhead parking lot lights. The amount of lighting shown is typical of a rural area.
  - c. Noise production: The sources of noise are typical truck noise and a “drum mixer producing ready-mix concrete” for construction which are no more intense than noises associated with the nearby construction of the Hoosier Heartland.
  - d. Hours of operation: 6:30 a.m. until 3:00 p.m. Monday through Saturday are reasonable operating hours. Petitioner indicated that there may be atypical days when the crew works 10-12 hour days, lasting until 6:30 p.m.; even those hours are in line with typical construction work. Staff can find no incompatibility with the proposed hours.

#### **STAFF RECOMMENDATION:**

Approval, with the following condition and commitment:

1. **Condition:** Prior to obtaining an Improvement Location Permit, petitioner must provide staff with an approved driveway permit from County Highway ;and
2. **Commitment:** A recorded commitment must be provided to staff which states that if petitioner’s use creates any negative effects on neighboring wells or the water table, that water for the use will be provided from off-site and hauled to the batch plant.

Note: A special exception approval ceases to be valid if the use is not established within one year of the date that the special exception was granted.



## Bianca Klinker

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**From:** Steve Henderson [steve.henderson@ebpaving.com]  
**Sent:** Wednesday, July 21, 2010 8:18 AM  
**To:** Bianca Klinker  
**Subject:** RE: Temporary Portable Concrete Plant

Bianca,

In response to your request for additional information I offer the following points of clarification:

**Water Usage** – As part of our due diligence, we had initially drilled a well to a depth of 700 feet on site, however we encountered salt water at that depth which we cannot use for the production of concrete. The deep well was decommissioned using standard practice and a shallower well was then installed at a depth of 150". A 24 hour test was then performed on this new well to ensure that there was adequate water flow for concrete production at the site and that we did not negatively impact the water table and any nearby wells. The test was successful; we pumped 95 gallons a minute for 24 hours with no impact on the water table. There was consistent pressure and flow throughout the test period. The plant has water meters and gauges installed to monitor water flow and we will have 17,000 gallons of water storage at the plant so that the well is not strained at any time. We keep a close eye on the water and our backup plan in the unlikely event that an unforeseen problem develops is that we have the capability of hauling batch water to the plant, if necessary. The bottom line is that our well driller (Ortman's, Kokomo, IN) has stated that this is a good well and that they do not see any problems. We have also met with Mary Killian (closest neighbor) and the property owner, Eldon and Betty Rose Baker concerning this issue and the next.

**Hours of Operation** – There are 85 days of production planned for the project. Plant production will vary depending upon how much grade has been prepared, weather conditions, etc. There will be periods of time with little or no activity followed by periods of intense activity. Plant production could, at times, be 10 hours, with most production days less than that. To cover un-anticipated problems on the jobsite, we would respectfully request that we be allowed up to 12 plant hours per day. This will also cover normal end of the day maintenance. We will not have any night production or production on any Sunday or Holiday. As previously stated, we think that most, if not all, production days will be less than 10 hours.

**Length of time for Temporary Variance** – It is understood that normally such requests are for a period of time less than a year in length. There is a possibility that we may have to come back to the Board to apply for an extension if the project is delayed due to weather, utility delays, etc. I think that it is better to get that fact out on the table up front so that everyone is aware.

Please let me know if you need any additional information.

Thanks,

Steve

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**From:** Bianca Klinker [mailto:bklinker@tippecanoe.in.gov]  
**Sent:** Tuesday, July 20, 2010 4:10 PM  
**To:** Steve Henderson  
**Subject:**

Bianca Klinker

Current Planner

Tippecanoe County Area Plan Commission

20 N 3rd Street

Lafayette IN 47901

[illegible]

BZA-1800 & 1801